

§ 58-93-100. Penalties and enforcement.

(a) The Commissioner may, in addition to or in lieu of suspending or revoking a license under G.S. 58-93-85, proceed under G.S. 58-2-70, provided that the PHP has reasonable time to remedy the defect in its operations that gave rise to the procedure under G.S. 58-2-70.

(b) Violation of this Article or any other provision of this Chapter that expressly applies to PHPs is a Class 1 misdemeanor.

(c) If the Commissioner shall for any reason have cause to believe that any violation of this Article or any other provision of this Chapter that expressly applies to PHPs has occurred or is threatened, the Commissioner may give notice to the PHP and to the representatives or other persons who appear to be involved in such suspected violation to arrange a conference with the alleged violators or their authorized representatives for the purpose of attempting to ascertain the facts relating to the suspected violation and, in the event it appears that any violation has occurred or is threatened, to arrive at an adequate and effective means of correcting or preventing the violation. If notice is given under this subsection, a copy of the notice shall be provided to the Secretary of DHHS. The Secretary of DHHS or the Secretary's designee may be present at any proceedings under this subsection.

Proceedings under this subsection shall not be governed by any formal procedural requirements and may be conducted in such manner as the Commissioner may deem appropriate under the circumstances.

(d) The Commissioner may issue an order directing a PHP or a representative of a PHP to cease and desist from engaging in any act or practice in violation of the provisions of this Article or any other provision of this Chapter that expressly applies to PHPs.

Within 30 days after service of the cease and desist order, the respondent may request a hearing on the question of whether acts or practices have occurred that are in violation of this Article or any other provision of this Chapter that expressly applies to PHPs. The hearing shall be conducted under Article 3A of Chapter 150B of the General Statutes, and judicial review shall be available as provided by Article 4 of Chapter 150B of the General Statutes.

(e) In the case of any violation of the provisions of this Article or any other provision of this Chapter that expressly applies to PHPs, if the Commissioner elects not to issue a cease and desist order, or in the event of noncompliance with a cease and desist order issued under subsection (d) of this section, the Commissioner may institute a proceeding to obtain injunctive relief, or seek other appropriate relief, in the Superior Court of Wake County.

(f) The Commissioner shall consult with the Secretary of DHHS prior to taking any action against a PHP under this section. (2018-49, s. 1(a).)